

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MACK LEWIS,

Petitioner,

-vs-

Case No. 14-C-831

**BRIAN FOSTER,
Warden of Green Bay
Correctional Institution,**

Respondent.

DECISION AND ORDER

Pro se Petitioner Mack Lewis (“Lewis”), currently incarcerated at Green Bay Correctional Institution, filed a petition for relief pursuant to 28 U.S.C. § 2254 challenging his January 4, 2008, conviction for second-degree reckless homicide with use of a dangerous weapon. He has paid the \$5.00 filing fee as directed by the Court’s December 12, 2014, Decision and Order. Consequently, the Court reviews this action pursuant to 28 U.S.C. § 1915(a)(1) and Rule 4 of the Rules Governing § 2254 Cases, which reads:

If it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court, the judge shall make an order for its summary dismissal and cause the petitioner to be notified. Otherwise the judge shall order the respondent to file an answer.

Rule 4, Rules Governing § 2254 Cases.

The Court's initial review of habeas petitions requires determining whether the petitioner has set forth cognizable constitutional or federal law claims and exhausted available state remedies. Lewis' petition raises arguable constitutional claims. He has presented his claims to the Wisconsin Court of Appeals and unsuccessfully petitioned the Wisconsin Supreme Court for review. *See State v. Lewis*, 338 Wis. 2d 211, 808 N.W.2d 174 (Wis. Ct. App. 2012) (Table), *rev. denied*, 352 Wis. 2d 351, 842 N.W.2d 359 (Wis. 2013) (Table). Since Lewis' claims are not subject to summary dismissal, the Court will require Respondent Brian Foster ("Foster") to file an answer.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS
HEREBY ORDERED THAT:**

Foster **MUST FILE AN ANSWER** to Lewis' petition for a writ of habeas corpus on or before March 23, 2015; and

The answer **MUST** conform to the requirements of Rule 5 of the Rules Governing Section 2254 Cases.

Dated at Milwaukee, Wisconsin, this 20th day of January, 2015.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge